

# **EXHIBIT C-17**

**CAUSE NO. 14-09604**

<b>SAMUEL &amp; JO ANN BREITLING</b>	§	<b>IN THE DISTRICT COURT OF</b>
<b>Plaintiffs</b>	§	
	§	
	§	
<b>v.</b>	§	<b>DALLAS COUNTY, TEXAS</b>
	§	
	§	
<b>LNV CORPORATION, <i>et al.</i>,</b>	§	
<b>Defendants</b>	§	<b>101ST JUDICIAL DISTRICT</b>

**DEFENDANT JUDGE DALE TILLERY'S RESPONSE TO MOTION TO TRANSFER**

To: To the Honorable Staci Williams, District Judge:

Defendant Judge Dale Tillery ("Defendant Judge"), through the Attorney General for the State of Texas, files his Response to Defendant Codilis & Stawiarski's ("Defendant Codilis") Motion to Transfer. In support, Defendant Judge respectfully offers the following:

**RESPONSE**

Defendant Codilis filed his Motion to Transfer on February 17, 2015. In support of its Motion, Defendant Codilis cites Dallas County Local Rules 1.06 and 1.07a, which presumably apply to this case because the matters before the Court are based substantially on a previously litigated controversy filed in the 116th District Court. *See* Dallas (Tex.) Civ. Dist. Ct. Loc. R. 1.06-1.07. Defendant Codilis's Motion to Transfer, however, should be denied, as the undersigned is currently representing Judge Tonya Parker of the 116th District Court in a matter currently pending before the United States Court of Appeals for the Fifth Circuit.<sup>1</sup> A transfer in this matter would raise ethical implications under the Texas Code of Judicial Conduct. *See* Tex. Code Jud. Conduct, Canon 2 (regarding the appearance of impropriety); *see also, In re E.A.P.*, No. 04-08-00503-CV, 2009 WL 618463, at \*2 (Tex. App.—San Antonio Mar. 11, 2009) ("The Texas Code

---

<sup>1</sup> *New Testament Church of Christ v. John Collins, et al.*, Cause No. 14-11224

of Judicial Conduct requires judges to avoid the appearance of impropriety in all of the judge's activities . . . .”).

Additionally, should this matter be transferred, Judge Parker would be subject to disqualification or a motion to recuse pursuant to Texas Rules of Civil Procedure 18a and 18b. Under Rule 18b, “A judge must recuse in any proceeding in which: (1) the judge’s impartiality might reasonably be questioned . . . .” Tex. R. Civ. P. 18b(b)(1). Undoubtedly, Judge Parker’s impartiality could reasonably be questioned based simply on the fact she would be represented in another matter by a litigant in a case pending before her.

### **CONCLUSION**

For the foregoing reasons, Defendant Codilis’s Motion to Transfer should be denied.

Respectfully submitted,

**KEN PAXTON**  
Attorney General of Texas

**CHARLES E. ROY**  
First Assistant Attorney General

**JAMES E. DAVIS**  
Deputy Attorney General for Defense Litigation

**KAREN D. MATLOCK**  
Assistant Attorney General  
Chief, Law Enforcement Defense Division

/s/ Kyle Smith  
**KYLE SMITH**  
Assistant Attorney General  
Attorney-In-Charge  
Texas State Bar No. 24086814

P. O. Box 12548, Capitol Station  
Austin, Texas 78711  
Phone: (512) 463-2080  
Fax: (512)-936-2109

**COUNSEL FOR DEFENDANT JUDGE**

**NOTICE OF ELECTRONIC FILING**

I, **Kyle Smith**, Assistant Attorney General of Texas, do hereby certify that I have electronically submitted for filing a correct copy of the foregoing in accordance with the Electronic File and Serve System of Dallas County, Texas on February 18, 2015.

/s/ Kyle Smith  
**KYLE SMITH**  
Assistant Attorney General

**CERTIFICATE OF SERVICE**

I, **Kyle Smith**, do hereby certify that a correct copy of the above has been served by placing same in the U.S. mail, postage prepaid, on February 18, 2015, addressed to:

**Samuel & Jo Ann Breitling**  
1704 Cornwall Lane  
Sachse, Texas 75048

**LVN Corporation**  
c/o Robert Mowrey, Jason Sanders, Marc Cabrera  
Locke Lord LLP  
2200 Ross Avenue, Suite 2200  
Dallas, Texas 75201

**MGC Mortgage**  
Locke Lord LLP  
c/o Robert Mowrey, Jason Sanders, Marc Cabrera  
2200 Ross Avenue, Suite 2200  
Dallas, Texas 75201

**Dovenmuehle Mortgage, Inc.**

c/o Patricia Ullman

1 Corporate Drive, Suite 360

Lake Zurich, Illinois 60047

**Codilis & Stawiarski PC**

c/o Clayton Devin

Macdonald Devin

3800 Renaissance Tower

1201 Elm Street

Dallas, Texas 75270

/s/ Kyle Smith

**KYLE SMITH**

Assistant Attorney General